

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 07, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

EUGENE KLIEWER,

Petitioner,

v.

JASON BENNETT,

Respondent.

No. 2:24-cv-00293-SAB

**ORDER DENYING MOTION
FOR RELIEF FROM
JUDGMENT**

By Order filed December 16, 2024, the Court dismissed this case without prejudice for failure to exhaust state court remedies and as a proper exercise of abstention under the *Younger* doctrine. ECF No. 15; *see Younger v. Harris*, 401 U.S. 37 (1971). Judgment was entered the same day. ECF No. 16. On January 7, 2025, Petitioner filed a Motion for Relief from Judgment. ECF No. 17.

In his Motion, Petitioner states that the Court “violated the Magistrate’s Act and Habeas Rule 4 and 8(b) by granting *informa [sic] pauperis* then terminating review by 28 U.S.C. § 1915(a)(3)[.]” ECF No. 17 at 1. Petitioner asks the Court to reopen his habeas corpus case “based upon the failure to apply United States Supreme Court precedent in determination of the Sixth Amendment claim presented” in his habeas petition. *Id.* at 2.

1 A motion for reconsideration may be reviewed under either Federal Rule of
2 Civil Procedure 59(e) (motion to alter or amend a judgment) or 60(b) (relief from
3 judgment). *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255,
4 1262 (9th Cir. 1993). “A district court may properly reconsider its decision if it
5 ‘(1) is presented with newly discovered evidence, (2) committed clear error or the
6 initial decision was manifestly unjust, or (3) if there is an intervening change in
7 controlling law.’” *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir.
8 2013) (*quoting Sch. Dist. No. 1J*, 5 F.3d at 1263). “There may also be other, highly
9 unusual, circumstances warranting reconsideration.” *Sch. Dist. No. 1J*, 5 F.3d at
10 1263.

11 Petitioner has not presented newly discovered evidence, demonstrated that
12 the Court committed clear error, or shown that the Order dismissing this action was
13 manifestly unjust. There has also been no intervening change in controlling law,
14 and Petitioner pleads no other circumstances warranting reconsideration. *Id.*
15 Accordingly, Petitioner’s Motion for Relief from Judgment, ECF No. 17,
16 is denied.

17 On January 17, 2025, Petitioner appealed the judgment in this case to the
18 Ninth Circuit Court of Appeals. ECF No. 18.

19 Accordingly, **IT IS HEREBY ORDERED:**

20 **1. Petitioner’s Motion for Relief from Judgment, ECF No. 17,**
21 **is DENIED.**

22 **2. Petitioner’s request for the Court to issue a certificate of appealability,**
23 **ECF No. 17 at 2, is DENIED.**

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1 **3.** The file shall **REMAIN** closed. The Court shall entertain no further
2 documents in this case, other than a notice of appeal of the Court's
3 ruling regarding the Motion for Relief from Judgment, and
4 the Clerk's Office shall note no further motions or petitions for hearing
5 in this case.

6 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
7 and provide a copy to Petitioner.

8 **DATED** this 7th day of February 2025.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

15 Stanley A. Bastian
16 Chief United States District Judge
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